

REMARKS/ARGUMENTS

Summary of the Office Action

Claims 1-7, 14-15, 17, and 20 have been rejected under 35 U.S.C. 102(b) as allegedly anticipated by U.S. Patent Publication No. 2002/0188195 to Mills ("*Mills*").

Claims 8-9 have been rejected under 35 U.S.C. 103(a) as allegedly obvious over *Mills* in view of U.S. Patent No. 5,023,072 to Cheng ("*Cheng*").

Claims 10-13, 19, and 21-22 have been rejected have been rejected under 35 U.S.C. 103(a) as allegedly obvious over *Mills* in view of U.S. Patent No. 5,023,072 to Cheng ("*Cheng*") 5,985,309 to Edwards ("*Edwards*").

Claims 16 has been rejected have been rejected under 35 U.S.C. 103(a) as allegedly obvious over *Mills* in view of U.S. Patent No. 6,623,722 to Osborne ("*Osborne*").

Applicant's Response

A. In the Specification

Paragraph [0058] has been amended to correct a typing error. No new matter has been added.

B. In the Claims

The rejection of claims 1-7, 14-15, 17, and 20, as allegedly anticipated by *Mills*, is respectfully traversed.

A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegall Bros. V. Union Oil of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Further, an anticipating prior art patent or printed publication must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the field of the invention. *In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990); *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 1566, 1567 (Fed. Cir. 1988).

Mills does not disclose, either expressly or inherently, each and every element set forth in amended claims 1 and 17, because *Mills* does not disclose or suggest that “the microcapsule additive is substantially free of gas inclusions.”

Mills discloses an echogenic medical device that includes a hollow gas filled chamber 5 enclosed by a parabolic echogenic surface 3. Two spacer elements are found on either side of the body chamber, each of which has a radiographic and/or NMR high-density material 2 in the spacer element. *Mills*, paragraphs [0091]-[0092]; FIGS. 1-3. Therefore, the disclosure of *Mills* anticipates neither of amended claims 1 or 17.

Claims 2-7, 14-15, and 20 depend directly or indirectly from independent claims 1 or 17 and are not anticipated by *Mills* at least for the same reasons as independent claims 1 or 17. Claims 2, 3, 11, and 12 have been amended to correct typing errors. No new matter has been added.

Concerning the rejections of claims 8-13, 16, 19, and 21-22 as obvious over *Mills* in view of *Cheng, Edwards*, or *Osborne*, a prima facie case of obviousness requires: (1) a suggestion or motivation to combine; (2) a reasonable expectation of success; and (3) a teaching or suggestion of all claim limitations in the prior art. *Brown & Williamson Tobacco Corp. v. Philip Morris*, 229 F.3d 1333, 1342 (Fed. Cir. 2003); *In re Regal*, 526 F.2d 1399, 1403 (C.C.P.A. 1975).

Because *Mills* expressly requires the use of gas-filled chambers, no teaching or suggestion is provided that would have motivated one skilled in the art at the time the invention was made to combine the teachings of *Mills* with those of *Cheng, Edwards*, or *Osborne* to produce a microcapsule additive substantially free of gas inclusions.

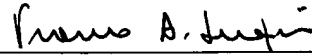
Therefore, the removal of all rejections against claims 1-22 is respectfully requested.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration and reexamination of the present application and the timely allowance of the pending claims.

Dated: March 6, 2007

Respectfully submitted,



Franco A. Serafini
Registration No. 52,207
Attorney for Applicant

LUCE, FORWARD, HAMILTON &
SCRIPPS, LLP
11988 El Camino Real, Suite 200
San Diego, CA 92130
Tel. (858) 720-6368
Fax: (858) 523-4326

3795602.1